THE TRADE DEAL - *A Manitoba Report*

CANADA — U.S. BILATERAL TRADE

OCTOBER 1987

Premier Howard Pawley has announced that Manitoba is not prepared to support the free trade agreement signed October 4 by officials of the Canadian and U.S. governments.

The preliminary transcript of the Canada-U.S. agreement was outlined for premiers during an eight-hour meeting of first ministers in Ottawa October 6.

Premier Pawley expressed appreciation for the very thorough briefings that first ministers had received from the prime minister over the past 18 months, and noted that the meeting had been "very positive and productive."

His conclusion, however, was that, "What was placed on the table, what was proposed, was not a blueprint that would bring about betterment for Canadians either of this generation or future generations."

The major reservations expressed by the premier regarding the agreement concerned the final version of the dispute settlement mechanism, the investment component, and the energy package. The premier also expressed concerns about the impact of the proposed agreement on agriculture, transportation and other sectors of the Manitoba economy.

The premier emphasized that Manitoba supported and continues to support the goal of more secure, enhanced trade. The Government of Manitoba recognizes the benefits that have flowed from four decades of tariff reduction under the 95-country General Agreement on Tariffs and Trade (GATT). The premier noted that, on this basis, Manitoba expressed its support for the Canada-U.S. trade negotiations when they were launched, and was prepared to support the resulting agreement had it been in the broad best interests of Manitoba and Canada.

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"Regretfully, what began as a search for enhanced, secure trade has now gone far beyond trade," said the premier. "What we have before us now is an agreement with profound implications for our economic and political destiny as a nation. This deal creates continental investment and energy regimes which severely bind and restrict future generations and governments in areas that are not related to trade.

"In exchange for these significant concessions and restrictions on Canada's economic and political independence, we have secured only a very weak and extremely limited mechanism for settling trade disputes with the United States. In short, Canada has surrendered far too much for a deal that does not achieve Canada's primary objective, which was to provide Canada with an effective shelter from U.S. protectionism."

White stating that he respected those who had a different vision of Canada, the premier said "The vision of Canada's future reflected in this deal is not one which we share, and it is not one which we feel Canadians should accept."

TRADE APPENDIX October 9, 1987

MANITOBA'S MAJOR CONCERNS REGARDING THE PRELIMINARY AGREEMENT TEXT INCLUDE THE FOLLOWING:

General comment: In general, Canada has obtained little more than the very theoretical benefits of "free trade". The United States, however, has obtained numerous concrete benefits such as:

- a wide-open investment policy
- guaranteed access to Canadian energy
- the elimination of the Autopact in all but name
- greatly improved access for U.S. wines
- guaranteed continued access for U.S. trucking firms
- greater access for U.S. poultry, eggs and grains

In addition, the U.S has retained its trade remedy laws intact, and remains free to harass Canadian exporters with legal actions.

Investment: The investment provisions of the agreement represent an unacceptable restriction on our flexibility to deal with foreign ownership and investment in future, and an unacceptable weakening of Canadian sovereignty. The dismantling of Canadian investment laws will allow the takeover of Canadian companies by U.S firms without the creation of any new employment. Indeed, subsequently they could reduce production or close out operations in Canada. A trade agreement should deal with trade policy matters. Inclusion of this investment component takes this agreement beyond trade to cover a non-trade issue, and unacceptably broadens the scope of the agreement into the realm of economic policy.

The investment component of the agreement, while leaving the investment review powers of Investment Canada nominally in place, not only freezes those powers at their present very limited level but also drastically reduces the range of investments that can be reviewed over time, thereby effectively gutting Investment Canada.

Under this agreement, Canada gives up the right to review the direct acquisition by a U.S. firm of any Canadian firm with assets of less than $150 million. Only 300 Canadian firms (and six Manitoba firms) have assets greater than $150 million.

Agriculture: The deal has little of benefit, and much that is harmful, for Canadian farmers. On the benefit side, the U.S. quota on imports of beef from Canada will be dropped, and there will be limitation on the use of technical standards as ad hoc barriers to trade. However, Canadian farmers, including beef and hog producers, will still be subject to countervailing duties (CVD) and dumping actions. As well, chicken, turkey, egg, grain, fruit and vegetable producers will all suffer declines in income as a result of this agreement.

Energy: The negotiators included a continentalist energy policy in the agreement without any consultation, or even any warning. Through 18 meetings between Ambassador Reisman and provincial officials, and six First Ministers' meetings, there was never any discussion of the possibility of such a provision in the agreement.

Manitoba cannot support a continentalist energy policy. Our abundant supply of cheap energy is one of the things that gives us a competitive advantage in an increasingly competitive world market. We must retain this advantage. By guaranteeing Americans that they will have the same access to Canadian energy as Canadians, we are relinquishing that competitive advantage.

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Transportation: Canada has been unilaterally deregulating Canadian trucking, and in so doing has given U.S. truckers greater access to the Canadian market. Canadian truckers have expressed the concern that they are simply too small to compete effectively with U.S. firms. The impact of these changes will reduce service and increase cost for smaller communities. This agreement will prevent Canada from re-introducing regulations in the event that Canadian trucking firms suffer greatly. However, under the agreement, the U.S. will retain its Jones Act, which limits U.S. coastal shipping to U.S. vessels.

Dispute Settlement: The so-called binding mechanism for settling disputes will only have the power to determine whether U.S. law covering dumping and countervailing duties (CVD) was properly interpreted and applied. Since the agreement does not come into force until January 1, 1989, it appears that Canada will not be exempted from the provisions of the U.S. trade bill which will probably become law sometime in the next two months. That bill contains new provisions on dumping and CVD which are both unfair and extremely prejudicial to Canada's interests. There is nothing in this agreement which will soften the impact of those provisions on Canada.

The binding mechanism applies only to dumping and countervailing (CVD) cases. All other parts of the agreement are subject only to non-binding dispute settlement.

Government Procurement: One of the major benefits of this deal was to have been national treatment in government procurement. This would have given Canadian firms access to the huge U.S. procurement market. However, the actual deal is very much smaller (less than 5%) than what we were promised. Only certain categories of federal government procurement are covered.

Softwood: In 1985-86, the U.S. softwood lumber industry launched a CVD action against Canada, arguing that Canada's system of stumpage fees on Crown timber land constituted a subsidy to producers. To prevent a heavy duty from being imposed, Canada agreed to impose an export tax. While this is clearly inconsistent with the principles of free trade, the agreement explicitly states that the softwood lumber arrangements are to remain in force.

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THE TRADE DEAL-

CANADA — U.S. BILATERAL TRADE

Investment

NOVEMBER 1987

INVESTMENT AND CANADA'S FUTURE

BACKGROUND: Since 1974, Canadians have insisted on the need to screen takeovers of companies to ensure that foreign investment operates in our best interests. Canada currently maintains the right to approve foreign takeovers of Canadian firms with assets greater than $5-million. Under the investment review process, Canada can reject takeover applications or impose conditions to protect Canadian jobs and require a minimum level of Canadian research by foreign owners.

WHAT THE TRADE DEAL PROPOSES: Canada will abandon the right to review the terms and conditions of new investment. The agreement will also drastically limit Canada's ability to screen U.S. takeovers of existing Canadian firms. Within four years, the threshold level for review will be raised by stages from the current $5-million to $150-million. The deal provides certain exceptions, notably in the area of cultural industries.

Meanwhile, the United States will continue to prohibit foreign investment in such industries as shipping, domestic air transport, dredging, nuclear power generation, telecommunications and broadcasting. These and a host of other U.S. federal and state restrictions will remain in force. Only Canada is committed in the agreement to reducing limits on foreign investment.

WHAT IT MEANS TO MANITOBA: Only six companies in this province have assets greater than $150-million. (In fact, there are only 300 firms in all Canada with such assets.) Under the trade deal, any Manitoba company not covered by an exemption could be bought by an American firm, and Canada would have no right to ensure that the deal is in our interests. Investment Canada, the federal review agency, could not insist on new jobs, nor protect existing jobs, nor require investment in Canadian research. Until the final text of the agreement is made available, it will not be clear whether the deal will inhibit the ability of provinces to review foreign investment.

The prospect of uncontrolled foreign takeovers threatens the jobs of Manitoba workers and the future growth and vitality of our economy.

MANITOBA'S POSITION

Manitoba welcomes investment which creates jobs and strengthens the provincial economy. However, the investment provisions in the Canada-U.S. agreement place unacceptable restrictions on Canada's ability to control foreign ownership and investment in future. A trade agreement should deal with trade matters. Investment is a non-trade issue which should not be included in a trade package.

Manitoba

THE TRADE DEAL - *Consumer Impact*

CANADA — U.S. BILATERAL TRADE

NOVEMBER 1987

IMPACT ON CONSUMERS

BACKGROUND: Consumers now pay a variety of charges on goods imported into Canada, including excise taxes, sales taxes, and duties. Canadian visitors to the U.S. are now permitted to import goods on a duty-free basis subject to various limits on the total value of merchandise imported.

WHAT THE TRADE DEAL PROPOSES: Over a period of 10 years, tariffs will be phased out on goods manufactured in North America and imported into Canada from the United States.

WHAT IT MEANS TO MANITOBA: Despite optimistic claims by proponents of the trade deal, it is estimated that each Canadian will see gains at a rate of only about $20 per year from phased tariff reductions. Savings in the cost of imported goods will be modest for the following reasons:

* Although duties on North American goods will gradually be eliminated, federal excise taxes and federal and provincial sales taxes will still apply. Prices of imports will not drop dramatically as a result of tariff removal.
* Tariffs are to be phased out over 10 years. The impact of reductions will be slight in any year, and may go unnoticed amid ongoing price increases.
* More than 80 per cent of Canada-U.S. trade is already duty-free.
* Only goods made in North America will be duty-free. Other imports, such as electronics from Japan, whether purchased in the U.S. or Canada, will remain subject to duties.

Canadian consumers will not find American cars cheaper than Canadian cars under the trade deal. For example, even with no tariffs on cars, when the exchange rate and federal manufacturers' sales tax are taken into account, U.S. cars will be no cheaper for Canadians than will the equivalent vehicles in Canada. In recent years, some Americans have actually been coming here to buy cars.

MANITOBA'S POSITION

Manitoba generally favours the lowering of tariffs and other trade barriers. However, the promised benefits of the Canada-U.S. agreement (price reductions on imported American goods) are small compared to the deal's serious disadvantages for Canada: loss of control over foreign takeovers, major concessions on the export of non-renewable energy, lack of protection from harmful U.S. trade practices, and absence of a fair process for settling trade disputes.

On balance, the consumer benefits from tariff reduction are not sufficient to justify entering into such a far-reaching agreement with the United States. That is one of the reasons why the Government of Manitoba is opposed to the Canada-U.S. deal.

Manitoba

THE TRADE DEAL-

CANADA — U.S. BILATERAL TRADE

Agriculture

NOVEMBER 1987

AGREEMENT OFFERS LITTLE FOR FARMERS

BACKGROUND: Canada-U.S. trade in agricultural products is currently subject to some restrictions on both sides. For example, Canada applies tariffs on American products such as seasonal fruits and vegetables. The United States has imposed countervailing duties on Canadian hogs.

WHAT THE TRADE DEAL PROPOSES: Following are highlights of the proposed agreement as it affects trade in agricultural products:

* Canadian seasonal tariffs on fruits and vegetables will be phased out. Existing non-tariff restrictions will continue to apply. Reversion to current (higher) tariff rates will be permitted under special circumstances for a 20-year period.
* Canada will allow increased imports of poultry and eggs, but supply management programs in these commodities will continue.
* U.S. countervailing duties against Canadian hogs will remain in place.
* Canadian quarantine requirements for imported hogs will be eased.
* Use of technical standards as ad hoc barriers to trade will be limited.
* Meat import limits, including U.S. beef import quotas, will be eliminated.
* Import licences for wheat, barley and oats will be eliminated when support levels in Canada and the United States are equivalent.
* Products containing 10 per cent or less sweetener will be exempt from American import restrictions.

WHAT IT MEANS TO MANITOBA: Although the dropping of U.S. beef import quotas will benefit Manitoba farmers, Canadian producers (including beef and hog producers) will still be subject to American countervailing duties and anti-dumping actions. The U.S. countervailing duty on hogs will not be lifted, since the Americans continue to object to Canadian stabilization programs. Chicken, turkey, egg, grain, fruit and vegetable producers stand to lose income due to increased imports.

MANITOBA'S POSITION

The proposed Canada-U.S. deal has little of benefit, and much that is harmful, for Manitoba farmers. Its failure to safeguard our producers from U.S. countervailing actions is a serious weakness in the agreement. Manitoba favours enhanced trade with other nations. However, the unfairness of this deal and its other damaging provisions -- loss of control over our own economy, inability to assure access to American markets, and expansion of American rights to Canadian oil and gas supplies -- make the agreement unacceptable to the Government of Manitoba.

Manitoba

THE TRADE DEAL - *Cultural Industries*

CANADA — U.S. BILATERAL TRADE

NOVEMBER 1987

MAINTAINING OUR CANADIAN IDENTITY

BACKGROUND: Canadians have long recognized the need for our national government to foster development of Canada's unique cultural identity. Given our small population, immense geographic size and continual exposure to American culture, active support by Ottawa has been crucial in strengthening Canadian culture.

WHAT THE TRADE DEAL PROPOSES: At first glance, the trade agreement appears to exempt cultural industries and to maintain the government's ability to protect Canada's cultural identity. However, the deal explicitly allows the U.S. to retaliate against any of Canada's exports in response to trade-related Canadian efforts to safeguard our cultural industries. (These industries are defined in the agreement as book publishing, film and video production, music recording and publishing, and broadcasting.)

U.S. retaliation could cause serious harm (including a possible backlash within Canada against cultural industries) if it results in the expansion of trade disputes from culture to other sectors.

In addition, the agreement contains other provisions affecting cultural industries. For example:

* Canadian magazines currently enjoy cheaper postal rates than do foreign-published magazines. Under the trade deal, that advantage is to be phased out for Canadian magazines of "significant" circulation. Removal of preferential postal rates will cause financial difficulty for many magazines. In some cases, the extra expense could mean the difference between folding and continuing to publish.

* The Americans have indicated they will resist demands that U.S.-based film distributors show more Canadian movies in Canadian theatres. This will undermine efforts to enable Canadians to see their own films, and make it harder for our film-makers to reach Canadian audiences.

WHAT IT MEANS TO MANITOBA: The trade agreement weakens the ability of governments to take trade-related steps to protect Canadian cultural industries. This will not only cause hardship for Manitobans employed in cultural industries, it will also seriously impede the continuing development of our distinctive national identity.

MANITOBA'S POSITION

Canada must retain the ability to encourage the development of our unique identity through a vigorous cultural community. The failure of the Canada-U.S. agreement to protect cultural industries adequately is one of the reasons why the Government of Manitoba opposes the proposed deal.

Manitoba

THE TRADE DEAL - *Dispute Settlement*

CANADA — U.S. BILATERAL TRADE

NOVEMBER 1987

FAIR DEALING IN TRADE

BACKGROUND: The American government reviews trade practices of other countries to determine whether imports which compete against domestic American products are subsidized or priced below fair market value. If U.S. officials conclude that imports are benefitting from a subsidy or are unfairly priced and that American companies have suffered as a result, they may impose countervailing duties or anti-dumping duties. Even where there is no question of subsidy or unfair trade, U.S. laws permit the President to restrict imports as part of a "safeguard" action to protect American industry.

A number of current American trade rules are vague and some are highly technical. U.S. officials have sometimes taken an unfair and biased approach in applying these rules. American industry has relatively easy access to American officials. This makes it easy for U.S. producers to file trade complaints against Canada on flimsy grounds, causing investigations which can be very costly and time-consuming for Canadian businesses to defend.

A key objective of Canada in trade talks with the United States was agreement on a joint set of rules to define subsidies and dumping practices. The Government of Manitoba supported efforts to develop a fair and binding process for settling trade disputes based on agreed rules.

WHAT THE TRADE DEAL PROPOSES:

* The proposed agreement does not define subsidies or dumping. The two countries commit themselves to negotiate new trade rules over the next five to seven years. In the meantime, the existing unfair rules will continue to apply.

* Binational panels will be set up to review decisions on countervailing and anti-dumping duties imposed on Canadian goods by the United States. In effect, the dispute settlement process outlined in the draft agreement will entrench unfair U.S. trade practices which have hurt Canada in the past.

* In ruling on countervailing or anti-dumping duties, a panel will be bound to apply existing U.S. laws, however unfair. Members may review only evidence already taken during previous American proceedings in a case, and will be precluded from taking a fresh look at the issues. A panel will have no right to overturn unfair decisions, but will be limited to sending issues back to the American decision-makers for actions which are consistent with the panel's rulings.

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* The agreement contains no adequate assurance that Canada will be protected in future from further damaging trade measures such as those contained in the comprehensive trade bill currently before the U.S. Congress.

* In other trade areas, a new Canada-United States Trade Commission is to be established as a forum for continuing consultations. The Commission will consist of equal numbers of Canadian and American nominees. Because rulings must be made by consensus, the U.S. will have an effective veto over decisions by the Commission. This is a significant obstacle to the resolution of trade disputes by the Commission.

* Decisions by the Commission's expert panels are non-binding, and no effective means of enforcement is provided in the agreement. Ultimately, the parties are left to self-help or retaliatory measures.

* While safeguard issues may be referred to a form of binding arbitration under the agreement, such arbitration is after the fact. Again, there is no effective mechanism to enforce any decision of such a panel. Failure by one side to implement a panel decision may provoke retaliation by the other side.

* The various panels will be appointed on a case-by-case basis, rather than on a permanent basis. (As a result, rulings are less likely to be consistent, and precedents will have less persuasive effect than would be the case with a permanent dispute settlement board.)

* The chair of a panel, who will cast the deciding vote when members are split on an issue, will be chosen by a random pick from a list of names provided by both countries. This means that, in a crucial case, protection of Canada's interests may be left to the luck of the draw.

* There is no provision for participation by provinces in the dispute settlement process, even though provincial interests may be vitally affected.

WHAT IT MEANS TO MANITOBA: Under the proposed dispute settlement process, Canada will have no better shelter from U.S. protectionism than we have now. Dispute settlement panels will be bound to apply existing U.S. trade laws, however unfair they may be to Canada. We have not gained secure access to American markets, as promised or claimed by Ottawa.

MANITOBA'S POSITION

The proposed dispute settlement mechanism is flawed and inadequate. It appears that none of the dispute settlement panels will have an effective way of enforcing their decisions. The Manitoba Government does not have confidence in the ability of panels to render judgments which are fair to Canada's interests. Further, Canada has given away valuable bargaining chips that would have helped this country to negotiate fair rules in future.

Without a binding settlement process based on fair rules, security of access to U.S. markets by Canadian products cannot be assured. The failure of the agreement in this crucial objective is a key reason why the Government of Manitoba cannot endorse the proposed deal.

THE TRADE DEAL-

CANADA — U.S. BILATERAL TRADE

Consumer Impact

NOVEMBER 1987

SPIRITS AND WINE

With removal of customs duties on spirits and wine purchased in the United States, savings to Canadian consumers will be negligible – about 2 cents on a $16 bottle of spirits, or 4 cents on a $9 bottle of wine. As the table below illustrates, customs duties amount to a fraction of the total cost. The trade deal will not alter existing excise duties, federal taxes, provincial fees or cur- rency exchange rates which account for a considerable share of the costs to consumers of these items.

CONSUMER SAVINGS ON ALCOHOL PRODUCTS
(per 750 ml bottle)

	WHISKEY		WINE	
	Current Costs (incl. customs duties)	Under Trade Deal (no customs duties)	Current Costs (incl. customs duties)	Under Trade Deal (no customs duties)
Example: Purchase Price in U.S. (U.S. dollars)	$ 6.00	$ 6.00	$ 4.00	$ 4.00
Price in Cdn. dollars (x 1.32)	$ 7.92	$ 7.92	$ 5.28	$ 5.28
FEES PAYABLE AT THE BORDER				
Customs duty	$ 0.02	nil	$ 0.03	nil
Federal excise duty	$ 3.22	$ 3.22	$ 0.34	$ 0.34
Federal sales tax (15%)	$ 1.67	$ 1.67	$ 0.85	$ 0.84
Prov. fees	$ 3.90	$ 3.90	$ 2.60	$ 2.60
TOTAL PRICE:	$ 16.73	$ 16.71	$ 9.10	$ 9.06

Manitoba

THE TRADE DEAL -

CANADA — U.S. BILATERAL TRADE

Government Procurement

NOVEMBER 1987

NO BOOM IN GOVERNMENT CONTRACTS

BACKGROUND: Under the rules of the General Agreement on Tariffs and Trade (GATT), Canadian companies now have the opportunity to bid on U.S. government contracts worth some $19-billion without interference from local preference provisions such as the "Buy America" policy. Canadian negotiators were seeking equally unrestricted access to a much larger share of the $570-billion market in U.S. federal, state and local government purchasing. However, the trade deal provides additional access to less than one per cent of this market.

WHAT THE TRADE DEAL PROPOSES:

* Only federal contracts will be covered under the government procurement section of the Canada-U.S. deal. State (provincial) and local government contracts will not be included.
* Under GATT rules, governments are already prevented from giving preference to domestic bids on contracts in specific areas above a value of $171,000 (U.S. dollars). The trade deal reduces that threshold to $25,000 for trade between the two countries.
* As a result, Canadian companies will be able to bid freely on only an additional $3.5-billion in U.S. contracts. Canada will permit U.S. firms to bid on an additional $500-million in government contracts. These figures represent less than one per cent of the total procurement markets in the respective countries. Moreover, it seems that about 80 per cent of the additional $3.5-billion in U.S. government purchasing was already open to Canadian suppliers on a non-discriminatory basis under existing bilateral defense agreements.
* The U.S. will retain its special program giving preference to American small businesses in the supply of government materials and services, and the "Buy America" conditions attached to federal funding assistance for the purchase of urban transit equipment.

WHAT IT MEANS TO MANITOBA: Canada did not achieve its key objective in the area of government purchasing. The trade deal does not increase the areas of procurement covered by the existing GATT agreement; it continues to allow for U.S. preferences for small businesses, leaves intact the "Buy America" provisions attached to federal funding assistance for urban transit equipment, and provides access to U.S. procurement which is already open to Canadian businesses. With $500-million in additional access to Canadian procurement granted to U.S. businesses under this deal, the net benefits to Canada and Manitoba are judged to be zero or perhaps even negative.

MANITOBA'S POSITION

The Government purchasing negotiations originally promised to be one of the areas where Canada could expect major gains from the trade deal. Not only are the final provisions disappointing, but they may even prove negative in the long run. In any case, the changes made in this deal could likely have been achieved through continued multilateral negotiations.

Manitoba